

§ 18.52

the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the judge for an *in camera* determination of the claim. The producing party must preserve the information until the claim is resolved.

[80 FR 28785, May 19, 2015, as amended at 80 FR 37539, July 1, 2015]

§ 18.52 Protective orders.

(a) *In general.* A party or any person from whom discovery is sought may file a written motion for a protective order. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without the judge's action. The judge may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (1) Forbidding the disclosure or discovery;
 - (2) Specifying terms, including time and place, for the disclosure or discovery;
 - (3) Prescribing a discovery method other than the one selected by the party seeking discovery;
 - (4) Forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;
 - (5) Designating the persons who may be present while the discovery is conducted;
 - (6) Requiring that a deposition be sealed and opened only on the judge's order;
 - (7) Requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way;
 - and
 - (8) Requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the judge directs.
- (b) *Ordering discovery.* If a motion for a protective order is wholly or partly

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denied, the judge may, on just terms, order that any party or person provide or permit discovery.

§ 18.53 Supplementing disclosures and responses.

(a) *In general.* A party who has made a disclosure under § 18.50(c)—or who has responded to an interrogatory, request for production, or request for admission—must supplement or correct its disclosure or response:

(1) In a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(2) As ordered by the judge.

(b) *Expert witness.* For an expert whose report must be disclosed under § 18.50(c)(2)(ii), the party's duty to supplement extends both to information included in the report and to information given during the expert's deposition. Any additions or changes to this information must be disclosed by the time the party's prehearing disclosures under § 18.50(c)(3) are due.

[80 FR 28785, May 19, 2015, as amended at 80 FR 37540, July 1, 2015]

§ 18.54 Stipulations about discovery procedure.

Unless the judge orders otherwise, the parties may stipulate that:

(a) A deposition may be taken before any person, at any time or place, on any notice, and in the manner specified—in which event it may be used in the same way as any other deposition; and

(b) Other procedures governing or limiting discovery be modified— but a stipulation extending the time for any form of discovery must have the judge's approval if it would interfere with the time set for completing discovery, for hearing a motion, or for hearing.

§ 18.55 Using depositions at hearings.

(a) *Using depositions—*(1) *In general.* If there is no objection, all or part of a deposition may be used at a hearing to the extent it would be admissible under the applicable rules of evidence as if